

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re SONY BMG CD Technologies Litigation : No. 05 CV 9575 (NRB)

**DECLARATION OF JENNIFER L. PARISER, ESQ., IN SUPPORT OF  
FINAL APPROVAL OF THE SETTLEMENT**

I, Jennifer L. Pariser, Esq., hereby declare as follows:

1. I am the Vice President and Senior Litigation Counsel for SONY BMG Music Entertainment (“SONY BMG”).

***E-Mail Notice***

2. SONY BMG, either itself or through third-party vendors, maintains websites and e-mail lists for many SONY BMG artists, including artists whose recent compact disc (“CD”) releases included the digital rights management software known as “XCP” or “MediaMax.” Through an artist website, fans of that artist can voluntarily provide their e-mail addresses to SONY BMG (or its vendor), and thus register to receive e-mails containing information about that artist. A list of all of the artists with XCP or MediaMax CDs for whom SONY BMG or a vendor maintains fan e-mail lists is attached as Exhibit A to this declaration.
3. SONY BMG also possesses a number of e-mail addresses of customers who have purchased XCP- or MediaMax-protected music through the online store at [www.sonymusicstore.com](http://www.sonymusicstore.com), and who voluntarily provided their e-mail addresses during the purchase process.
4. Further, SONY BMG possesses e-mail addresses of customers who contacted SONY BMG by e-mail with questions about their XCP or MediaMax CDs.
5. On February 10, 2006, SONY BMG sent notice of the proposed settlement of the above-captioned matter to e-mail addresses that SONY BMG possessed as a

result of (a) purchases of XCP or MediaMax CDs from the online store, (b) e-mail communications with customers about XCP or MediaMax, and (c) fan lists for most of the artists with XCP or MediaMax Version 5 CDs.

6. The total number of e-mail addresses to which SONY BMG sent notice of the proposed settlement on February 10, 2006 is 1,043,123. Of those, 111,257 were returned as undeliverable.
7. On March 2, 2006, we realized that SONY BMG had mistakenly failed to send e-mails to the fan e-mail lists of most of the artists whose CDs were protected by MediaMax Version 3 (with the two exceptions of Dido and Sarah McLachlan), seven of the artists whose CDs were protected by MediaMax Version 5 (Britney Spears, Chris Brown, Raheem DeVaughn, Syleena Johnson, T-Pain, Charlie Wilson, and Wakefield), and one artist whose CD was protected by XCP (Nivea).
8. We immediately compiled the relevant lists, and sent notices to those addresses later in the day on March 2. The total number of e-mails sent on March 2 was 1,573,614. Because MediaMax Version 3 CDs are older, the number of out-of-date e-mails was higher. 203,390 of these e-mails were returned as undeliverable.
9. Between the February 10 and March 2 batch mailings, a total of 2,302,090 e-mails were sent successfully to subscribers of artists' e-mail lists, online purchasers, and customers who had contacted SONY BMG directly about XCP and MediaMax.
10. On April 28, defendant SunnComm International Inc. provided SONY BMG with approximately 60,935 e-mail addresses that SunnComm believed might belong to members of the Settlement Class. We sent notices to those addresses that same day. Of the 60,935 e-mails sent, 9,254 were returned as undeliverable. Additionally, a significant number of these SunnComm e-mail addresses appear to be duplicates of addresses to which SONY BMG had already sent notice on February 10 and March 2.
11. The content of the e-mail notice SONY BMG sent to all of these addresses is attached as Exhibit B to this declaration.

***Banner Notice***

12. All CDs containing XCP content protection software, and six CDs containing MediaMax Version 5 content protection software, have a "banner" feature as part of the media player interface. If the computer playing the CD has an active internet connection, the media player interface queries SONY BMG's web server for information to be displayed about the artist.

13. The six MediaMax Version 5 CDs with this banner function are: Raheem DeVaughn, *The Love Connection*; Wakefield, *Which Side Are You On?*; Leo Kottke/Mike Gordon, *Sixty Six Steps*; Charlie Wilson, *Charlie Last Name Wilson*; Syleena Johnson, *Chapter 3: The Flesh*; Youngbloodz, *Ev'rybody Know Me*.
14. On February 10, 2006, SONY BMG began causing its servers to transmit information about the settlement when computers playing banner-equipped CDs queried the servers for artist-related information. The information in the banner includes a link to the settlement website.
15. Screen shots showing how the banner feature functions on XCP CDs and MediaMax CDs are attached as Exhibit C to this declaration.

***Google and Yahoo Campaigns***

16. SONY BMG has entered into agreements with two of the most popular internet search engines — Google and Yahoo — for the purpose of displaying a sponsored link to the settlement website when a person using those search engines enters certain search terms.
17. The search terms that cause the sponsored link to be displayed include, among many others, the terms “Sony Class Action,” “Media Max,” “Sony BMG,” “Sony DRM,” “XCP,” “Sony Copy Control,” “SunnComm,” “Copy Protection,” “First 4 Internet,” “Sony Uninstall,” “Sony Exchange Program,” “Rootkit Class Action,” and variations of those terms. Additionally, searches in Google for the names of the affected CD titles and artists will also cause the sponsored link to be displayed in most cases.
18. The Google campaign began on February 16, 2006 and will remain effective through December 31, 2006. SONY BMG will continue to monitor its use and to add or subtract search terms as appropriate. An example of how the sponsored link is displayed following a Google search for “Sony Settlement” is attached as Exhibit D to this declaration.
19. The Yahoo campaign began on March 28, 2006 and will remain effective through December 31, 2006. SONY BMG will continue to monitor its use and to add or subtract terms as appropriate. An example of how the sponsored link is displayed following a Yahoo search for “Sony Settlement” is attached as Exhibit E to this declaration.

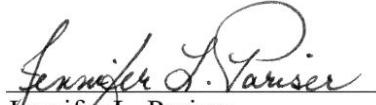
***Joint Press Release***

20. On or about February 16, 2006, Class Counsel and Sony BMG jointly issued a press release regarding the settlement in accordance with the terms of the

Settlement Agreement. The joint press release is attached as Exhibit F to this declaration.

I have reviewed my declaration and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated:           New York, New York  
                  May 8, 2006

  
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Jennifer L. Pariser  
Vice President, Senior Litigation Counsel